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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,702	02/02/2004	Lev Korzinov	16491-022001	1300

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FISH & RICHARDSON, PC
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MINNEAPOLIS, MN 55440-1022

EXAMINER

BERTRAM, ERIC D

ART UNIT	PAPER NUMBER
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3766

MAIL DATE	DELIVERY MODE
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03/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/770,702	Applicant(s) KORZINOV ET AL.	
	Examiner Eric D. Bertram	Art Unit 3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-18, 26-39 and 41-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-18, 26-39 and 41-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/26/08 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 13-18, 26-39 and 41-60 have been considered but are moot in view of the new ground(s) of rejection, necessitated by applicant's amendment.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 13-18, 26-39 and 41-60 are rejected under 35 U.S.C. 102(b) as being anticipated by Nau et al. (US 5,732,708, hereinafter Nau).

5. Regarding claims 13, 15, 26, 37, 39, 47, 48, 52, 53 and 58-60, Nau discloses a system and method for storing EGM data. Specifically, Nau discloses receiving a cardiac biological signal that includes information describing events (Col. 7, lines 57-

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59). The events comprise periods of time when the information content of the EGM signal is of increased relevance to a particular purpose. In this case, the content is an arrhythmic event, of any length, that triggers the storage of the EGM signal (Col. 8, lines 57-59). The merit of the event is then determined by whether or not the event is actually an arrhythmia needing correction. As such the merit of the information is based on the severity of the cardiac condition; an event requiring therapy is inherently more severe than one that is self-correcting. If the event is not an arrhythmia needing correction, then the information describing the event is discarded (Col. 9, lines 53-59). Therefore, the information is inherently not qualified to be stored. Otherwise, the information that needs to be corrected by a therapy is stored and then telemetrically transmitted to a remote medical receiver (Col. 13, lines 5-7).

6. Regarding claims 14, 16, 34-36, 38, 45, 46 Nau discloses that the most recent meritorious events will replace the oldest meritorious events (Col. 13, lines 3-5). Therefore, the events that are transmitted are have merits among the most meritorious, i.e., they are the newest, meritorious events.

7. Regarding claims 17 and 18, the events must occur during the time span of when the method and apparatus are in use. Events occurring outside of when events are sensed are inherently excluded.

8. Regarding claims 27-29, 49-51, 54-56, Nau discloses identifying each event by the type of arrhythmia, including bradycardia, tachycardia, and fibrillation, all of which depend on the frequency of heart beats (Col. 8, lines 39-45).

9. Regarding claims 30-33, 41-44, 57, Nau discloses that each event includes a recorded timestamp (Col. 8, lines 57-60), and that the most recent meritorious events will replace the oldest meritorious events (Col. 13, lines 3-5) when a predetermined memory size is filled.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D. Bertram whose telephone number is 571-272-3446. The examiner can normally be reached on Monday-Friday from 9:30-6 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl H. Layno can be reached on 571-272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carl H. Layno/
Supervisory Patent Examiner, Art Unit 3766

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/E. D. B./

Examiner, Art Unit 3766